

ACE

In the United States District Court
for the Northern District of Illinois
Eastern Division

SHIRE CANADA INC., et al.,)	
)	
Plaintiffs and)	
Counterdefendants,)	
)	
vs.)	No. 11 C 206
)	
ALKEM LABORATORIES, LTD.)	Judge Leinenweber
)	Magistrate Judge Cole
Defendant and)	
Counterplaintiff.)	

**CONSENT JUDGMENT AND STIPULATION OF DISMISSAL
OF ALKEM'S COUNTERCLAIM**

WHEREAS this action has been brought by Plaintiffs Shire Canada Inc., Shire International Licensing B.V., and Shire US Inc. (collectively "Shire") against Defendant Alkem Laboratories, Ltd. ("Alkem") for infringement of United States Patent Nos. 5,968,976 and 7,465,465;

WHEREAS Alkem has filed a Counterclaim (docket entry 11) for a declaration of non-infringement and/or invalidity as to United States Patent Nos. 5,968,976, 7,465,465 and 7,381,428 (collectively, the "Shire Patents");

WHEREAS Shire has tendered to Alkem a covenant-not-to-sue as to each of the Shire Patents with respect to the products that are the subject of Alkem's ANDA No. 202,329, as those products are described in said ANDA as it existed on August 5, 2011 ("Alkem's ANDA Products");

WHEREAS this Court granted Shire's motion to dismiss its claims for infringement of the '976 and '465 Patents on December 8, 2012 (docket entry 34).

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Judgment is hereby entered in Alkem's favor as to Counts 1, 2, and 3 of its Counterclaim (docket entry 11) declaring that Alkem's ANDA Products (as defined above) would not infringe any of the Shire Patents.
2. This consent judgment and stipulation of dismissal does not constitute a judgment that any claim of any of the Shire Patents is invalid or unenforceable. To the extent that Counts 1, 2, and 3 of Alkem's Counterclaim sought a judgment that any claim of any of the Shire Patents was invalid or unenforceable, those counts are dismissed as moot.
3. The Stipulated Protective Order dated June 30, 2011, shall remain in full force and effect and this Court retains jurisdiction to enforce such Order.
4. Each party shall bear its own costs, attorneys' fees and expenses incurred in connection with the above-captioned action.
5. Shire's Motion to Dismiss Alkem's Counterclaim (docket entry 37) is hereby denied as moot.

Dated:

1/26/12

ENTERED: 

UNITED STATES DISTRICT JUDGE

Stipulated and Agreed to:

/s/Paul F. Stack

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